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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,821

10/06/2005

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EXAMINER

PASCUA, JES F

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/552,821	<b>Applicant(s)</b> SCHNEIDER ET AL.	
	<b>Examiner</b> Jes F. Pascua	<b>Art Unit</b> 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/6/05</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hand holes in the side panels formed as C-shaped cutouts (claim 3), the hand holes in the handles welded to the side panels formed as C-shaped cutouts (claim 8) and the handles extending over the full width of the side panels (claim 12) must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the functional term “operable” renders the claim unclear as to whether or not the slider is being claimed as part of applicant’s invention. Clarification is requested. For the purposes of examination, the claim will be considered as including a slider.

In claim 1, the functional recitation profiled strips of a closure “operable by a slider” is indefinite because it is not supported by recitation in the claim of sufficient structure to accomplish the function.

In claim 6, the functional term “operable” renders the claim unclear as to whether or not the slider is being claimed as part of applicant’s invention. Clarification is requested. For the purposes of examination, the claim will be considered as including a slider.

In claim 6, the functional recitation profiled strips of a closure “operable by a slider” is indefinite because it is not supported by recitation in the claim of sufficient structure to accomplish the function.

Claims that have not been specifically mentioned are rejected since they depend from claims rejected under 35 U.S.C. § 112, second paragraph.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Document No. JP 2001-171695A (hereafter JP 2001-171695A).

JP 2001-171695A discloses the claimed invention (see Figs. 1-3) except for the profiled strips of the closure being operable by a slider. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the profiled strips of the JP 2001-171695A closure with a slider, since it was known in the art of bags that sliders facilitate the opening and closing of profiled strips.

Regarding claim 5, JP 2001-171695A discloses the claimed invention, as discussed above, except for side panels being made of an insulating foil. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use insulating foil for the side panels of JP 2001-171695A, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

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6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-171695A and U.S. Patent No. 4,734,148 to Meyer.

Regarding claim 3, JP 2001-171695A discloses the claimed device, as discussed above, except for the hand holes being formed as a C-shape cutout. Meyer discloses that it is known in the art to provide a hand hole as a C-shaped cutout. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the hand hole of JP 2001-171695A with the C-shaped cutout form of Meyer, in order to eliminate waste material.

Regarding claim 4, JP 2001-171695A discloses the claimed device, as discussed above, except for thermoplastic -foil reinforcement welded on the inner face of each side panel and around each hand hole. Meyer discloses that it is known in the art to provide a thermoplastic -foil reinforcement welded on the inner face of each side panel and around each hand hole of a bag. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the hand holes of JP 2001-171695A with the for thermoplastic -foil reinforcement of Meyer, in order to strengthen the area of the of the side panels around the hand holes.

7. Claims 6, 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,217,032 to Buchanan et al.

Buchanan et al. discloses the claimed invention (see Figs. 3B and 3C), especially the handles (16, 18) being welded to an outer face of each bag side panel portion (14). However, Buchanan et al. does not disclose the handles being made of a thermoplastic

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synthetic-resin foil. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use thermoplastic synthetic-resin foil for the handles of Buchanan et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Regarding claim 9, Buchanan et al. discloses the claimed invention, as discussed above, except for side panels being made of an insulating foil. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use insulating foil for the side panels of Buchanan et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Regarding claim 10, the handles of Buchanan et al. are directly below the closure the same degree applicant has set forth the metes and bounds of the term "directly".

Regarding claim 11, the handles of Buchanan et al. are welded on together with the closure to the same degree as claimed.

8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan et al. and Japanese Document No. JP 5-84108A (hereafter JP 5-84108A).

Buchanan et al. discloses the claimed invention except that Buchanan et al. shows the handles as straps instead of flaps with C-shaped cutouts. JP 5-84108A shows that handle flaps with C-shaped cutouts are an equivalent structure known in the art. Therefore, because these two handle means were art-recognized equivalents at

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the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the strap handles of Buchanan et al. for flaps with C-shaped cutouts.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 714.02 and MPEP 2163.06. The "disclosure" includes the claims, the specification and the drawings.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jes F. Pascua/  
Primary Examiner, Art Unit 3782